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name, full mailing address, and telephone number.

(d) Contact information for the individual maintaining records of test results, including the custodian's name, e-mail address, full mailing address, and telephone number. (CPSC suggests that each issuer maintain test records supporting the certification for at least three years as is currently required by certain consumer product specific CPSC standards, for example at 16 CFR 1508.10 for full-size baby cribs.)

(e) Date (month and year at a minimum) and place (including city and state, country, or administrative region) where the product was manufactured. If the same manufacturer operates more than one location in the same city, the street address of the factory in question should be provided.

(f) Date and place (including city and state, country or administrative region) where the product was tested for compliance with the regulation(s) cited above in subsection (b).

(g) Identification of any third-party laboratory on whose testing the certificate depends, including name, full mailing address and telephone number of the laboratory.

§ 1110.13 Availability of electronic certificate.

(a) CPSA section 14(g)(3) requires that the certificates required by section 14(a) “accompany” each product or product shipment and be “furnished” to each distributor and retailer of the product in question.

(1) An electronic certificate satisfies the “accompany” requirement if the certificate is identified by a unique identifier and can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and are available, along with access to the electronic certificate itself, to the Commission or to the Customs authorities as soon as the product or shipment itself is available for inspection.

(2) An electronic certificate satisfies the “furnish” requirement if the distributor(s) and retailer(s) of the product are provided a reasonable means to access the certificate.

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(b) An electronic certificate shall have a means to verify the date of its creation or last modification.

§ 1110.15 Legal responsibility for certificate information.

Any entity or entities may maintain an electronic certificate platform and may enter the requisite data. However, the entity or entities required by CPSA section 14(a) to issue the certificate remain legally responsible for the accuracy and completeness of the certificate information required by statute and its availability in timely fashion.

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

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AUTHORITY: Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

SOURCE: 77 FR 31084, May 24, 2012, unless otherwise noted.

Subpart A—Purpose and Definitions

§ 1112.1 Purpose.

This part defines the term “third party conformity assessment body” and describes the types of third party conformity assessment bodies whose accreditations are accepted by the CPSC to test children’s products under section 14 of the CPSA. It describes the requirements and procedures for becoming a CPSC-accepted third party conformity assessment body; the audit requirement applicable to CPSC-accepted third party conformity assessment bodies; how a third party conformity assessment body may volun-

tarily discontinue participation as a CPSC-accepted third party conformity assessment body; the grounds and procedures for withdrawal or suspension of CPSC acceptance of the accreditation of a third party conformity assessment body; and how an individual may submit information alleging grounds for adverse action.

[78 FR 15858, Mar. 12, 2013]

§ 1112.3 Definitions.

Unless otherwise stated, the definitions of section 3 of the CPSA and additional definitions in the Consumer Product Safety Improvement Act of 2008, Public Law 110–314, apply for purposes of this part. The following definitions apply for purposes of this subpart:

Accreditation means a procedure by which an authoritative body gives formal recognition that a third party conformity assessment body meets competence requirements to perform specific tasks. Accreditation recognizes a third party conformity assessment body’s technical capability and is usually specific for tests of the systems, products, components, or materials for which the third party conformity assessment body claims proficiency.

Accept accreditation means that the CPSC has positively disposed of an application by a third party conformity assessment body to test children’s products pursuant to a particular children’s product safety rule, for purposes of the testing required in section 14 of the CPSA.

Accreditation body means an entity that:

(1) Accredits or has accredited a third party conformity assessment body as meeting, at a minimum, the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) Standard ISO/IEC 17025:2005, “General Requirements for the Competence of Testing and Calibration Laboratories,” and any test methods or consumer product safety requirements specified in the relevant notice of requirements issued by the Commission; and

(2) Is a signatory to the International Laboratory Accreditation Cooperation–Mutual Recognition Arrangement.

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Audit means a systematic, independent, documented process for obtaining records, statements of fact, or other relevant information, and assessing them objectively to determine the extent to which specified requirements are fulfilled. An audit, for purposes of this part, consists of two parts:

(1) An examination by an accreditation body to determine whether the third party conformity assessment body meets or continues to meet the conditions for accreditation (a process known more commonly as a “reassessment”); and

(2) The resubmission of the “Consumer Product Conformity Assessment Body Acceptance Registration Form” (CPSC Form 223) and accompanying documentation by the third party conformity assessment body and the Consumer Product Safety Commission’s (CPSC’s) examination of the resubmitted CPSC Form 223 and accompanying documentation. Accompanying documentation includes the baseline documents required of all applicants in §1112.13(a), the documents required of firewalled applicants in §1112.13(b)(2), and/or the documents required of governmental applicants in §1112.13(c)(2).

Commission means the body of Commissioners appointed to the Consumer Product Safety Commission.

CPSA means the Consumer Product Safety Act, 15 U.S.C. 2051–2089.

CPSC means the Consumer Product Safety Commission as an agency.

Notice of requirements means a publication that provides the minimum qualifications necessary for a third party conformity assessment body to have its accreditation accepted to test children’s products for conformity with a particular children’s product safety rule.

Quality manager means an individual (however named) who, irrespective of other duties and responsibilities, has defined responsibility and authority for ensuring that the management system related to quality is implemented and followed at all times and has direct access to the highest level of management at which decisions are made on the conformity assessment body’s policy or resources.

Scope means the range of particular CPSC safety rules and/or test methods to which a third party conformity assessment body has been accredited and for which it may apply for CPSC acceptance.

Suspend means the CPSC has removed its acceptance, for purposes of the testing of children’s products required in section 14 of the CPSA, of a third party conformity assessment body’s accreditation for failure to cooperate in an investigation under this part.

Third party conformity assessment body means a laboratory.

Undue influence means that a manufacturer, private labeler, governmental entity, or other interested party affects a third party conformity assessment body, such that commercial, financial, or other pressures compromise the integrity of its testing processes or results.

Withdraw means the CPSC removes its prior acceptance of a third party conformity assessment body’s accreditation pursuant to a particular children’s product safety rule for purposes of the testing of children’s products required in section 14 of the CPSA.

[77 FR 31084, May 24, 2012, as amended at 78 FR 15858, Mar. 12, 2013]

Subpart B—General Requirements Pertaining to Third Party Conformity Assessment Bodies

SOURCE: 78 FR 15859, Mar. 12, 2013, unless otherwise noted.

§ 1112.11 What are the types of third party conformity assessment bodies?

(a) *Independent*. Independent third party conformity assessment bodies are third party conformity assessment bodies that are neither owned, managed, or controlled by a manufacturer or private labeler of a children’s product to be tested by the third party conformity assessment body, nor owned or controlled, in whole or in part, by a government;

(b) *Firewalled*. A third party conformity assessment body must apply for firewalled status if:

(1) It is owned, managed, or controlled by a manufacturer or private labeler of a children's product;

(i) For purposes of determining whether a third party conformity assessment body is firewalled, "manufacturer" includes a trade association.

(ii) A manufacturer or private labeler is considered to own, manage, or control a third party conformity assessment body if any one of the following characteristics applies:

(A) The manufacturer or private labeler of the children's product holds a 10 percent or greater ownership interest, whether direct or indirect, in the third party conformity assessment body. Indirect ownership interest is calculated by successive multiplication of the ownership percentages for each link in the ownership chain;

(B) The third party conformity assessment body and a manufacturer or private labeler of the children's product are owned by a common "parent" entity; or

(C) A manufacturer or private labeler of the children's product has the ability to appoint any of the third party conformity assessment body's senior internal governing body (such as, but not limited to, a board of directors), the ability to appoint the presiding official (such as, but not limited to, the chair or president) of the third party conformity assessment body's senior internal governing body, the ability to hire, dismiss, or set the compensation level for third party conformity assessment body personnel, regardless of whether this ability is ever exercised;

(2) The children's product is subject to a CPSC children's product safety rule that the third party conformity assessment body requests CPSC acceptance to test; and

(3) The third party conformity assessment body intends to test such children's product made by the owning, managing, or controlling entity for the purpose of supporting a Children's Product Certificate.

(c) *Governmental.* Governmental third party conformity assessment bodies are owned or controlled, in whole or in part, by a government. For purposes of this part, "government" includes any unit of a national, territorial, provincial, regional, state, tribal, or local

government, and a union or association of sovereign states. "Government" also includes domestic, as well as foreign entities. A third party conformity assessment body is "owned or controlled, in whole or in part, by a government" if any one of the following characteristics applies:

(1) A governmental entity holds a 1 percent or greater ownership interest, whether direct or indirect, in the third party conformity assessment body. Indirect ownership interest is calculated by successive multiplication of the ownership percentages for each link in the ownership chain;

(2) A governmental entity provides any direct financial investment or funding (other than fee for work);

(3) A governmental entity has the ability to appoint a majority of the third party conformity assessment body's senior internal governing body (such as, but not limited to, a board of directors); the ability to appoint the presiding official of the third party conformity assessment body's senior internal governing body (such as, but not limited to, chair or president); and/or the ability to hire, dismiss, or set the compensation level for third party conformity assessment body personnel;

(4) Third party conformity assessment body management or technical personnel include any government employees;

(5) The third party conformity assessment body has a subordinate position to a governmental entity in its external organizational structure (not including its relationship as a regulated entity to a government regulator); or

(6) Apart from its role as regulator, the government can determine, establish, alter, or otherwise affect:

(i) The third party conformity assessment body's testing outcomes;

(ii) The third party conformity assessment body's budget or financial decisions;

(iii) Whether the third party conformity assessment body may accept particular offers of work; or

(iv) The third party conformity assessment body's organizational structure or continued existence.

§ 1112.13 How does a third party conformity assessment body apply for CPSC acceptance?

(a) *Baseline Requirements.* Each third party conformity assessment body seeking CPSC acceptance must:

(1) Submit a completed Consumer Product Conformity Assessment Body Registration Form (CPSC Form 223 or Application). In submitting a CPSC Form 223, the third party conformity assessment body must attest to facts and characteristics about its business that will determine whether the third party conformity assessment body is independent, firewalled, or governmental. The third party conformity assessment body also must attest that it has read, understood, and agrees to the regulations in this part. The third party conformity assessment body must update its CPSC Form 223 whenever any information previously supplied on the form changes.

(2) Submit the following documentation.

(i) *Accreditation certificate.* (A) The third party conformity assessment body must be accredited to the ISO/IEC Standard 17025:2005(E), “General requirements for the competence of testing and calibration laboratories.”

(B) The accreditation must be by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation-Mutual Recognition Arrangement (ILAC-MRA).

(ii) *Statement of scope.* The third party conformity assessment body’s accreditation must include a statement of scope that clearly identifies each CPSC rule and/or test method for which CPSC acceptance is sought. Although a third party conformity assessment body may include more than one CPSC rule and/or test method in its scope in one application, it must submit a new application if the CPSC has already accepted the third party conformity assessment body for a particular scope, and the third party conformity assessment body wishes to expand its acceptance to include additional CPSC rules and/or test methods.

(b) *Additional Requirements for Firewalled Third Party Conformity Assessment Bodies.* (1) A third party conformity assessment body may be accepted as a firewalled third party con-

formity assessment body if the Commission, by order, makes the findings described in § 1112.17(b).

(2) For the Commission to evaluate whether an applicant firewalled third party conformity assessment body satisfies the criteria listed in § 1112.17(b), and in addition to the baseline accreditation requirements in paragraph (a) of this section, a firewalled third party conformity assessment body applying for acceptance of its accreditation must submit copies of:

(i) The third party conformity assessment body’s established policies and procedures that explain:

(A) How the third party conformity assessment body will protect its test results from undue influence by the manufacturer, private labeler, or other interested party;

(B) That the CPSC will be notified immediately of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue influence over the third party conformity assessment body’s test results; and

(C) That allegations of undue influence may be reported confidentially to the CPSC;

(ii) Training documents, including a description of the training program content, showing how employees are trained annually on the policies and procedures described in paragraph (b)(2)(i) of this section;

(iii) Training records, including a list and corresponding signatures, of the staff members who received the training identified in paragraph (b)(2)(ii) of this section. The records must include training dates, location, and the name and title of the individual providing the training;

(iv) An organizational chart(s) of the third party conformity assessment body that includes the names of all third party conformity assessment body personnel, both temporary and permanent, and their reporting relationship within the third party conformity assessment body;

(v) An organizational chart(s) of the broader organization that identifies the reporting relationships of the third party conformity assessment body within the broader organization (using

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both position titles and staff names); and

(vi) A list of all third party conformity assessment body personnel with reporting relationships outside of the third party conformity assessment body. The list must identify the name and title of the relevant third party conformity assessment body employee(s) and the names, titles, and employer(s) of all individuals outside of the third party conformity assessment body to whom they report;

(c) *Additional Requirements for Governmental Third Party Conformity Assessment Bodies.* (1) The CPSC may accept a governmental third party conformity assessment body if the CPSC determines that:

(i) To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose third party conformity assessment bodies that are not owned or controlled by the government of that nation;

(ii) The third party conformity assessment body's testing results are not subject to undue influence by any other person, including another governmental entity;

(iii) The third party conformity assessment body is not accorded more favorable treatment than other third party conformity assessment bodies in the same nation who have been accredited;

(iv) The third party conformity assessment body's testing results are accorded no greater weight by other governmental authorities than those of other accredited third party conformity assessment bodies; and

(v) The third party conformity assessment body does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the third party conformity assessment body's conformity assessments.

(2) For the CPSC to evaluate whether a governmental third party conformity assessment body satisfies the criteria listed in paragraph (c)(1) of this section, and in addition to the baseline accreditation requirements in paragraph (a) of this section, a governmental

third party conformity assessment body seeking CPSC-accepted status must submit:

(i) *Description.* A description illustrating the relationships with other entities, such as government agencies and joint ventures partners. The description may be in the form of a diagram;

(ii) *Responses to questionnaires.* The CPSC will provide a governmental third party conformity assessment body applicant with a questionnaire and will provide a separate questionnaire to the affiliated governmental entity;

(iii) *Executed memorandum.* A copy of an executed memorandum addressing undue influence;

(A) The memorandum must be:

(1) Addressed to all staff of the third party conformity assessment body;

(2) On company letterhead;

(3) From senior management of the third party conformity assessment body;

(4) In the primary written language used for business communication in the area where the third party conformity assessment body is located; if that language is different than English, an English translation of the executed memorandum must also be provided to the CPSC;

(5) Displayed prominently for staff reference for as long as the accreditation of the third party conformity assessment body whose accreditation is accepted by the CPSC; and

(B) The memorandum must state that:

(1) The policy of the laboratory is to reject undue influence by any manufacturer, private labeler, governmental entity, or other interested party, regardless of that person or entity's affiliation with any organization;

(2) Employees are required to report immediately to their supervisor or any other official designated by the third party conformity assessment body about any attempts to gain undue influence; and

(3) The third party conformity assessment body will not tolerate violations of the undue influence policy.

(iv) *Attestation.* A senior officer of the governmental third party conformity

assessment body, who has the authority to make binding statements of policy on behalf of the third party conformity assessment body, must attest to the following:

(A) The third party conformity assessment body seeks acceptance as a governmental third party conformity assessment body under the CPSC's program of requirements for the testing of children's products;

(B) The official intends the attestation to be considered in support of any and all applications made by this third party conformity assessment body for acceptance of its accreditation by the CPSC, including future applications related to additional CPSC rules and/or test methods;

(C) The attestation, and any other document submitted in support of the application, is accurate in its representation of current conditions or policies at the third party conformity assessment body, to the best of the official's knowledge, information, and/or belief. The information in the attestation, and any other document submitted in support of the application, will be understood by the CPSC as continuing in its accuracy in every respect, until and unless notice of its revocation by an authorized officer of the third party conformity assessment body is received by the CPSC. The official understands that acceptance by the CPSC carries with it the obligation to comply with this part, in order to remain on the CPSC's list of accepted third party conformity assessment bodies. The attestation is submitted as a condition of acceptance of this laboratory as a governmental third party conformity assessment body by the CPSC.

(D) The word "government" in the attestation refers to any government (central, provincial, municipal, or other) in this third party conformity assessment body's country or administrative area and includes state-owned entities, even if those entities do not carry out governmental functions.

(E) With regard to consumer products to be distributed in commerce in the United States and subject to CPSC third party testing requirements, the third party conformity assessment body does not receive, and will not accept from any governmental entity,

treatment that is more favorable than that received by other third party conformity assessment bodies in the same country or administrative area, which have been accepted as accredited for third party testing by the CPSC. More favorable treatment for a governmental third party conformity assessment body includes, but is not limited to, authorization to perform essential export-related functions, while competing CPSC-accepted laboratories in the same country or administrative area are not permitted to perform those same functions.

(F) With regard to consumer products to be sold in the United States and subject to CPSC third party testing requirements, the third party conformity assessment body's testing results are not accorded greater weight by any governmental entity that may be evaluating such results for export control purposes, compared to other third party conformity assessment bodies in the same country or administrative area, which have been accepted as accredited for third party testing by the CPSC.

(G) The third party conformity assessment body has an expressed policy, known to its employees, that forbids attempts at undue influence over any government authorities on matters affecting its operations.

(H) When a governmental third party conformity assessment body is owned or controlled by a governmental entity that also has any ownership or control over consumer product production, the senior officer of the applicant third party conformity assessment body must attest that the third party conformity assessment body will not conduct CPSC tests in support of a Children's Product Certificate for products for export to the United States that have been produced by an entity in which that governmental entity holds such ownership or control until it has applied for and been accepted by the Commission as, a dual governmental-firewalled third party conformity assessment body.

(v) *Governmental entity attestation.* In the event that the CPSC determines that its ability to accept a governmental third party conformity assessment body's application is dependent

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upon a recently changed circumstance in the relationship between the third party conformity assessment body and a governmental entity, and/or a recently changed policy of the related governmental entity, the CPSC may require the relevant governmental entity to attest to the details of the new relationship or policy.

(d) *Dual firewalled and governmental status.* A third party conformity assessment body that meets both the firewalled and the governmental criteria must submit applications under both firewalled and governmental categories.

(e) *English language.* All application materials must be in English.

(f) *Electronic submission.* The CPSC Form 223 and all accompanying documentation must be submitted electronically via the CPSC Web site.

(g) *Clarification and verification.* The CPSC may require additional information to determine whether the third party conformity assessment body meets the relevant criteria. In addition, the CPSC may verify accreditation certificate and scope information directly from the accreditation body before approving an application.

(h) *Retraction of application.* A third party conformity assessment body may retract a submitted CPSC Form 223 any time before the CPSC has acted on the submission. A retraction will not end or nullify any enforcement action that the CPSC is otherwise authorized by law to pursue.

(i) The Director of the Federal Register approves this incorporation by reference in paragraph (a)(2)(i) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of ISO/IEC 17025:2005(E), "General requirements for the competence of testing and calibration laboratories," Second Edition, May 15, 2005 from the International Organization for Standardization (ISO), 1, ch. de la Voie-Creuse, Case postale 56, CH-1211 Geneva 20, Switzerland; Telephone +41 22 749 01 11, Fax +41 22 733 34 30; <http://www.iso.org/iso/home.htm>. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and

Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

(a) Once the CPSC publishes the requirements for accreditation to a particular CPSC rule or test method, a third party conformity assessment body may apply to the CPSC for acceptance to that scope of accreditation. An application may be made for acceptance of accreditation to more than one CPSC rule or test method. Once accepted by the CPSC, a third party conformity assessment body may apply at any time to expand the scope of its acceptance to include additional CPSC rules or test methods. A third party conformity assessment body may only issue test results for purposes of section 14 of the CPSA that fall within a scope for which the CPSC has accepted the third party conformity assessment body's accreditation.

(b) The CPSC has published the requirements for accreditation for third party conformity assessment bodies to assess conformity for the following CPSC rules or test methods:

(1) 16 CFR part 1203, Safety Standard for Bicycle Helmets;

(2) 16 CFR part 1215, Safety Standard for Infant Bath Seats;

(3) 16 CFR part 1216, Safety Standard for Infant Walkers;

(4) 16 CFR part 1217, Safety Standard for Toddler Beds;

(5) 16 CFR part 1219, Safety Standard for Full-Size Baby Cribs;

(6) 16 CFR part 1220, Safety Standard for Non-Full-Size Baby Cribs;

(7) 16 CFR part 1221, Safety Standard for Play Yards;

(8) 16 CFR part 1223, Safety Standard for Infant Swings;

(9) 16 CFR part 1224, Safety Standard for Portable Bed Rails;

(10) 16 CFR part 1303, Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint. For its accreditation to be accepted by the Commission to test

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to 16 CFR part 1303, a third party conformity assessment body must have one or more of the following test methods referenced in its statement of scope:

(i) CPSC Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings, CPSC-CH-E1003-09;

(ii) CPSC Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings, CPSC-CH-E1003-09.1;

(iii) ASTM F2853-10, "Standard Test Method for Determination of Lead in Paint Layers and Similar Coatings or in Substrates and Homogenous Materials by Energy Dispersive X-Ray Fluorescence Spectrometry Using Multiple Monochromatic Excitation Beams."

(11) 16 CFR part 1420, Safety Standard for All-Terrain Vehicles;

(12) 16 CFR 1500.86(a)(5), Exceptions from Classification as a Banned Toy or Other Banned Article for Use by Children (Clacker Balls);

(13) 16 CFR 1500.86(a)(7) and (8), Exceptions from Classification as a Banned Toy or Other Banned Article for Use by Children (Dive Sticks and Similar Articles);

(14) 16 CFR part 1501, Method for Identifying Toys and Other Articles Intended for Use by Children Under 3 Years of Age Which Present Choking, Aspiration, or Ingestion Hazards Because of Small Parts;

(15) 16 CFR part 1505, Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children;

(16) 16 CFR part 1510, Requirements for Rattles;

(17) 16 CFR part 1511, Requirements for Pacifiers;

(18) 16 CFR part 1512, Requirements for Bicycles;

(19) 16 CFR part 1513, Requirements for Bunk Beds;

(20) 16 CFR part 1610, Standard for the Flammability of Clothing Textiles;

(21) 16 CFR part 1611, Standard for the Flammability of Vinyl Plastic Film;

(22) 16 CFR part 1615, Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X (FF 3-71);

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(23) 16 CFR part 1616, Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14 (FF 5-74);

(24) 16 CFR part 1630, Standard for the Surface Flammability of Carpets and Rugs (FF 1-70);

(25) 16 CFR part 1631, Standard for the Surface Flammability of Small Carpets and Rugs (FF 2-70);

(26) 16 CFR part 1632, Standard for the Flammability of Mattresses and Mattress Pads (FF 4-72, amended);

(27) 16 CFR part 1633, Standard for the Flammability (Open Flame) of Mattress Sets;

(28) Lead Content in Children's Metal Jewelry. For its accreditation to be accepted by the Commission to test for lead content in children's metal jewelry, a third party conformity assessment body must have one or more of the following test methods referenced in its statement of scope:

(i) CPSC Test Method CPSC-CH-E1001-08, "Standard Operating Procedure for Determining Total Lead (Pb) in Children's Metal Products (Including Children's Metal Jewelry)";

(ii) CPSC Test Method CPSC-CH-E1001-08.1, "Standard Operating Procedure for Determining Total Lead (Pb) in Children's Metal Products (Including Children's Metal Jewelry)";

(iii) CPSC Test Method CPSC-CH-E1001-08.2, "Standard Operating Procedure for Determining Total Lead (Pb) in Children's Metal Products (Including Children's Metal Jewelry)";

(iv) CPSC Test Method CPSC-CH-E1001-08.3, "Standard Operating Procedure for Determining Total Lead (Pb) in Children's Metal Products (Including Children's Metal Jewelry)";

(v) Section I, "Screening Test for Total Pb Analysis," from CPSC "Standard Operating Procedure for Determining Lead (Pb) and its Availability in Children's Metal Jewelry," February 3, 2005;

(29) Limits on Total Lead in Children's Products: Children's Metal Products. For its accreditation to be accepted by the Commission to test for total lead content in children's metal products, a third party conformity assessment body must have one or more of the following test methods referenced in its statement of scope:

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(i) CPSC Test Method CPSC-CH-E1001-08, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry)”;

(ii) CPSC Test Method CPSC-CH-E1001-08.1, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry)”;

(iii) CPSC Test Method CPSC-CH-E1001-08.2, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry)”;

(iv) CPSC Test Method CPSC-CH-E1001-08.3, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry)”;

(30) Limits on Total Lead in Children’s Products: Nonmetal Children’s Products. For its accreditation to be accepted by the Commission to test for lead content in nonmetal children’s products, a third party conformity assessment body must have one or more of the following test methods referenced in its statement of scope:

(i) CPSC Test Method CPSC-CH-E1002-08, “Standard Operating Procedure for Determining Total Lead (Pb) in Nonmetal Children’s Products”;

(ii) CPSC Test Method CPSC-CH-E1002-08.1, “Standard Operating Procedure for Determining Total Lead (Pb) in Nonmetal Children’s Products”;

(iii) CPSC Test Method CPSC-CH-E1002-08.2, “Standard Operating Procedure for Determining Total Lead (Pb) in Nonmetal Children’s Products”;

(iv) CPSC Test Method CPSC-CH-E1002-08.3, “Standard Operating Procedure for Determining Total Lead (Pb) in Nonmetal Children’s Products”;

(31) Limits on Phthalates in Children’s Toys and Child Care Articles. For its accreditation to be accepted by the Commission to test for phthalates in children’s toys and child care articles, a third party conformity assessment body must have one or more of the following test methods referenced in its statement of scope:

(i) CPSC Test Method CPSC-CH-1001-09.3, “Standard Operating Procedure for Determination of Phthalates”;

(ii) GB/T 22048-2008, “Toys and Children’s Products—Determination of

Phthalate Plasticizers in Polyvinyl Chloride Plastic”;

(32) ASTM F963-11 “Standard Consumer Safety Specification for Toy Safety,” and section 4.27 (toy chests) from ASTM F963-07e1 “Standard Consumer Safety Specification for Toy Safety.” The CPSC only requires certain provisions of ASTM F963-11 and Section 4.27 of ASTM F963-07e1 to be subject to third party testing; and therefore, the CPSC only accepts the accreditation of third party conformity assessment bodies for testing under the following toy safety standards:

(i) ASTM F963-07e1; Section 4.27—Toy Chests (except labeling and/or instructional literature requirements);

(ii) ASTM F963-11:

(A) Section 4.3.5.1(2), Surface Coating Materials—Soluble Test for Metals

(B) Section 4.3.5.2, Toy Substrate Materials

(C) Section 4.3.6.3, Cleanliness of Liquids, Pastes, Putties, Gels, and Powders (except for cosmetics and tests on formulations used to prevent microbial degradation)

(D) Section 4.3.7, Stuffing Materials

(E) Section 4.5, Sound Producing Toys

(F) Section 4.6, Small Objects (except labeling and/or instructional literature requirements)

(G) Section 4.7, Accessible Edges (except labeling and/or instructional literature requirements)

(H) Section 4.8, Projections (except bath toy projections)

(I) Section 4.9, Accessible Points (except labeling and/or instructional literature requirements)

(J) Section 4.10, Wires or Rods

(K) Section 4.11, Nails and Fasteners

(L) Section 4.12, Plastic Film

(M) Section 4.13, Folding Mechanisms and Hinges

(N) Section 4.14, Cords, Straps, and Elastics

(O) Section 4.15, Stability and Overload Requirements

(P) Section 4.16, Confined Spaces

(Q) Section 4.17, Wheels, Tires, and Axles

(R) Section 4.18, Holes, Clearances, and Accessibility of Mechanisms

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(S) Section 4.19, Simulated Protective Devices (except labeling and/or instructional literature requirements)

(T) Section 4.20.1, Pacifiers with Rubber Nipples/Nitrosamine Test

(U) Section 4.20.2, Toy Pacifiers

(V) Section 4.21, Projectile Toys

(W) Section 4.22, Teethers and Teething Toys

(X) Section 4.23.1, Rattles with Nearly Spherical, Hemispherical, or Circular Flared Ends

(Y) Section 4.24, Squeeze Toys

(Z) Section 4.25, Battery-Operated Toys (except labeling and/or instructional literature requirements)

(AA) Section 4.26, Toys Intended to Be Attached to a Crib or Playpen (except labeling and/or instructional literature requirements)

(BB) Section 4.27, Stuffed and Beanbag-Type Toys

(CC) Section 4.30, Toy Gun Marking

(DD) Section 4.32, Certain Toys with Nearly Spherical Ends

(EE) Section 4.35, Pompoms

(FF) Section 4.36, Hemispheric-Shaped Objects

(GG) Section 4.37, Yo-Yo Elastic Tether Toys

(HH) Section 4.38, Magnets (except labeling and/or instructional literature requirements)

(II) Section 4.39, Jaw Entrapment in Handles and Steering Wheels

(c) The Director of the Federal Register approves the incorporations by reference in paragraph (b) of this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect a copy of the standards incorporated in this section at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(1) ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428: <http://www.astm.org>.

(i) ASTM F2853-10, “Standard Test Method for Determination of Lead in

Paint Layers and Similar Coatings or in Substrates and Homogenous Materials by Energy Dispersive X-Ray Fluorescence Spectrometry Using Multiple Monochromatic Excitation Beams,” July 1, 2010;

(ii) ASTM F963-07e1, “Standard Consumer Safety Specification for Toy Safety,” March 15, 2007;

(iii) ASTM F963-11, “Standard Consumer Safety Specification for Toy Safety,” December 1, 2011.

(2) Code of China, Room 2118, New Fortune International Plaza, No.71 Chaoyang Road, Chaoyang District, Beijing, 100123, China: <http://www.codeofchina.com/>.

(i) GB/T 22048-2008, National Standard of the People’s Republic of China, “Toys and Children’s Products—Determination of Phthalate Plasticizers in Polyvinyl Chloride Plastic,” June 18, 2008;

(ii) [Reserved]

(3) CPSC National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850; www.cpsc.gov.

(i) CPSC-CH-C1001-09.3, “Standard Operating Procedure for Determination of Phthalates”, April 1, 2010;

(ii) CPSC-CH-E1001-08, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry)”, December 4, 2008;

(iii) CPSC-CH-E1001-08.1, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry), Revision”, June 21, 2010;

(iv) CPSC-CH-E1001-08.2, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry), Revision”, April 10, 2012;

(v) CPSC-CH-E1001-08.3, “Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry) Revision”, November 15, 2012;

(vi) CPSC-CH-E1002-08, “Standard Operating Procedure for Determining Total Lead (Pb) in Non-metal Children’s Products”, February 1, 2009;

(vii) CPSC-CH-E1002-08.1, “Standard Operating Procedure for Determining

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Total Lead (Pb) in Non-metal Children's Products, Revised'', June 21, 2010;

(viii) CPSC-CH-E1002-08.2, "Standard Operating Procedure for Determining Total Lead (Pb) in Nonmetal Children's Products, Revision'', April 10, 2012;

(ix) CPSC-CH-E1002-08.3, "Standard Operating Procedure for Determining Total Lead (Pb) in Non-metal Children's Products, Revision'', November 15, 2012;

(x) CPSC-CH-E1003-09, "Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings'', April 26, 2009;

(xi) CPSC-CH-E1003-09.1, "Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings'', February 25, 2011;

(xii) CPSC "Standard Operating Procedure for Determining Lead (Pb) and its Availability in Children's Metal Jewelry'', February 3, 2005.

EFFECTIVE DATE NOTES: 1. At 78 FR 63034, Oct. 23, 2013, § 1112.15 was amended by adding paragraph (b)(33), effective April 23, 2014. For the convenience of the user, the added text is set forth as follows:

§ 1112.15 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?

* * * *

(b) * * *

(33) 16 CFR part 1218, Safety Standard for Bassinets and Cradles.

* * * *

2. At 78 FR 73424, Dec. 6, 2013, § 1112.15 was amended by adding paragraph (b)(34), effective June 6, 2014. For the convenience of the user, the added text is set forth as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * *

(b) * * *

(34) 16 CFR part 1225, Safety Standard for Hand-Held Infant Carriers.

* * * *

§ 1112.17 How will the CPSC respond to each application?

(a) The CPSC staff will review each application and may contact the third party conformity assessment body with questions or to request submission of missing information.

(b) The application of a firewalled third party conformity assessment body will be accepted by order of the Commission, if the Commission finds that:

(1) Acceptance of the accreditation of the third party conformity assessment body would provide equal or greater consumer safety protection than the manufacturer's or private labeler's use of an independent third party third party conformity assessment body; and

(2) The third party conformity assessment body has established procedures to ensure that:

(i) Its test results are protected from undue influence by the manufacturer, private labeler, or other interested party;

(ii) The CPSC is notified immediately of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue influence over test results; and

(iii) Allegations of undue influence may be reported confidentially to the CPSC.

(c) The CPSC will communicate its decision on each application in writing to the applicant, which may be by electronic mail.

§ 1112.19 How does the CPSC publish information identifying third party conformity assessment bodies that have been accepted?

The CPSC will maintain on its Web site an up-to-date listing of third party conformity assessment bodies whose accreditations it has accepted and the scope of each acceptance. The CPSC will update the listing regularly to account for changes, such as the addition of new CPSC rules and/or test methods to its scope of accreditation, changes to accreditation certificates, new addresses, as well as changes to the status of a third party conformity assessment body due to voluntary discontinuance, suspension, and/or withdrawal. The CPSC will also list the firewalled or governmental status of

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accepted laboratories on the CPSC Web site.

§ 1112.21 May a third party conformity assessment body use testing methods other than those specified in the relevant CPSC rule or test method?

If the CPSC has specified a test method, a third party conformity assessment body must use that test method for any tests conducted for purposes of section 14 of the CPSA.

§ 1112.23 May a CPSC-accepted third party conformity assessment body subcontract work conducted for purposes of section 14 of the CPSA?

(a) A CPSC-accepted third party conformity assessment body (which, for purposes of this section, also will be referred to as the prime contractor) may only subcontract work conducted for purposes of section 14 of the CPSA to other third party conformity assessment bodies whose accreditation has been accepted by the CPSC for the scope necessary for the subcontracted work. Violation of this provision constitutes compromising the integrity of the testing process and may be grounds for withdrawal of the CPSC's acceptance of the accreditation of the prime and/or subcontracting third party conformity assessment body.

(b) The provisions of this part apply to all CPSC-accepted third party conformity assessment bodies, even if they are a prime contractor and/or a subcontractor.

§ 1112.25 What are a third party conformity assessment body's record-keeping responsibilities?

(a) The third party conformity assessment body must maintain the following records, which must be legible:

(1) All test reports and technical records related to tests conducted for purposes of section 14 of the CPSA must be maintained for a period of at least five years from the date the test was conducted;

(2) In the case of a test report for a test conducted by a CPSC-accepted third party conformity assessment body acting as a subcontractor, the prime contractor's test report must clearly identify which test(s) was performed by a CPSC-accepted third party

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conformity assessment body acting as a subcontractor(s), and the test report from the CPSC-accepted third party conformity assessment body acting as a subcontractor must be available upon request by CPSC.

(3) Where a report, for purposes of section 14 of the CPSA, provided by the third party conformity assessment body to a customer is different from the test record, the third party conformity assessment body also must retain the report provided to the customer for a period of at least five years from the date the test was conducted.

(4) Any and all third party conformity assessment body internal documents describing testing protocols and procedures (such as instructions, standards, manuals, guides, and reference data) that have applied to a test conducted for purposes of section 14 of the CPSA must be retained for a period of at least five years from the date such test was conducted.

(b) Upon request by the CPSC, the third party conformity assessment body must make any and all of the records required by this section available for inspection, either in hard copy or electronically, such as through an Internet Web site. If the records are not in the English language, the third party conformity assessment body must make copies of the original (non-English language) available to the CPSC within 48 hours, and they must make an English translation of the records available to the CPSC within 30 calendar days of the date the CPSC requested an English translation.

§ 1112.27 Must a third party conformity assessment body allow CPSC inspections related to investigations?

A third party conformity assessment body, as a condition of the continued CPSC-acceptance of its accreditation, must allow an officer or employee duly designated by the CPSC to enter and inspect the third party conformity assessment body for purposes of an investigation under this part. The CPSC will conduct such inspections in accordance with 16 CFR 1118.2. Failure to cooperate with such an inspection constitutes

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failure to cooperate with an investigation and is grounds for suspension under § 1112.45.

§ 1112.29 How does a third party conformity assessment body voluntarily discontinue its participation with the CPSC?

(a) A third party conformity assessment body may voluntarily discontinue participation as a CPSC-accepted third party conformity assessment body at any time and for any portion of its scope that is accepted by the CPSC. The third party conformity assessment body must notify the CPSC, in writing, which may be electronic. The notice must include:

(1) Name, address, phone number, electronic mail address for the third party conformity assessment body and the person responsible for submitting the request;

(2) Scope of the discontinuance;

(3) Beginning date for the discontinuance;

(4) Statement that the third party conformity assessment body understands that it must reapply for acceptance of the accreditation scope for which it is requesting discontinuance; and

(5) Verification that the person requesting the discontinuance has the authority to make such a request on behalf of the third party conformity assessment body.

(b) The CPSC may verify the information submitted in a notice of voluntary discontinuance.

(c) Upon receipt of a notice from a third party conformity assessment body that it wishes to discontinue voluntarily as a CPSC-accepted third party conformity assessment body, or after verifying the information in a notice, the CPSC will update its Web site to indicate that the CPSC no longer accepts the accreditation of the third party conformity assessment body for the scope indicated, as of the date provided in the notice.

(d) Notwithstanding a third party conformity assessment body's voluntary discontinuance as a CPSC-accepted third party conformity assessment body, the CPSC may begin or continue an investigation related to an

adverse action under this part, or other legal action.

Subpart C—Audit Requirements for Third Party Conformity Assessment Bodies

§ 1112.30 What is the purpose of this subpart?

This subpart establishes the audit requirements for third party conformity assessment bodies pursuant to section 14(i)(1) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2063(i)(1)). Compliance with these requirements is a condition of the continuing accreditation of such third party conformity assessment bodies pursuant to section 14(a)(3)(C) of the CPSA. However, this subpart does not apply to certifying organizations under the Labeling of Hazardous Art Materials Act, even if such organizations are third party conformity assessment bodies.

§ 1112.31 Who is subject to these audit requirements?

Except for certifying organizations described in 16 CFR 1500.14(b)(8), these audit requirements apply to third party conformity assessment bodies operating pursuant to section 14(a)(2) of the CPSA. Third party conformity assessment bodies must comply with the audit requirements as a continuing condition of the CPSC's acceptance of their accreditation.

§ 1112.33 What must an audit address or cover and who conducts the audit?

(a) The reassessment portion of an audit must cover management requirements and technical requirements. Each reassessment portion of an audit also must examine the third party conformity assessment body's management systems to ensure that the third party conformity assessment body is free from any undue influence regarding its technical judgment.

(b) The third party conformity assessment body must have the reassessment portion of the audit conducted by the same accreditation body that accredited the third party conformity assessment body. For example, if a third party conformity assessment body was accredited by an accreditation body

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named AB-1, then AB-1 would conduct the reassessment. If, however, the same third party conformity assessment body changes its accreditation so that it becomes accredited by a different accreditation body named AB-2, then AB-2 would conduct the reassessment.

(c) The third party conformity assessment body must have the examination portion of the audit conducted by the CPSC. The examination portion of the audit will consist of resubmission of the “Consumer Product Conformity Assessment Body Acceptance Registration Form” (CPSC Form 223) by the third party conformity assessment body and the CPSC’s examination of the resubmitted CPSC Form 223.

(1) For “firewalled” conformity assessment bodies, the CPSC’s examination may include verification to ensure that the “firewalled” conformity assessment body continues to meet the criteria set forth in section 14(f)(2)(D) of the CPSA.

(2) For government-owned or government-controlled conformity assessment bodies, the CPSC’s examination may include verification to ensure that the government-owned or government-controlled conformity assessment body continues to meet the criteria set forth in section 14(f)(2)(B) of the CPSA.

§ 1112.35 When must an audit be conducted?

(a) At a minimum, each third party conformity assessment body must be reassessed at the frequency established by its accreditation body.

(b) For the examination portion of the audit, which is conducted by the CPSC:

(1) Each third party conformity assessment body must submit a CPSC Form 223 for audit purposes no less than every two years. When a CPSC Form 223 is submitted for audit purposes, the third party conformity assessment body must submit any accompanying documentation that would be required if it were a new application.

(2) Under § 1112.13(a)(1), a third party conformity assessment body must submit a new CPSC Form 223 whenever the information supplied on the form changes. In the event that the third party conformity assessment body sub-

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mits a new CPSC Form 223 to provide updated information, the third party conformity assessment body may elect to have the new CPSC Form 223 satisfy the requirement of paragraph (b)(1) of this section. If the third party conformity assessment body intends to have the new CPSC Form 223 treated as its submission for audit purposes, the third party conformity assessment body must make that intention clear upon submission, and it must submit any accompanying documentation that would be required if it were a new application.

(3) At least 30 days prior to the date by which a third party conformity assessment body must submit a CPSC Form 223 for audit purposes, the CPSC will notify the body in writing, which may be electronic, of the impending audit deadline. A third party conformity assessment body may request an extension of the deadline for the examination portion of the audit, but it must indicate how much additional time is requested and explain why such an extension is warranted. The CPSC will notify the third party conformity assessment body whether its request for an extension has been granted.

[77 FR 31084, May 24, 2012, as amended at 78 FR 15865, Mar. 12, 2013]

§ 1112.37 What must a third party conformity assessment body do after an audit?

(a) When the accreditation body presents its findings to the third party conformity assessment body, the third party conformity assessment body’s quality manager must receive the findings and, if necessary, initiate corrective action in response to the findings.

(b) The quality manager must prepare a resolution report identifying the corrective actions taken and any follow-up activities. If findings indicate that immediate corrective action is necessary, the quality manager must document that they notified the relevant parties within the third party conformity assessment body to take immediate corrective action and also document the action(s) taken.

(c) If the accreditation body decides to reduce, suspend, or withdraw the third party conformity assessment

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body's accreditation, and the reduction, suspension, or withdrawal of accreditation is relevant to the third party conformity assessment body's activities pertaining to a CPSC regulation or test method, the quality manager must notify the CPSC. Such notification must be sent to the Assistant Executive Director, Office of Hazard Identification and Reduction, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, within five business days of the accreditation body's notification to the third party conformity assessment body.

(d) If the CPSC finds that the third party conformity assessment body no longer meets the conditions specified in CPSC Form 223, or in the relevant statutory provisions applicable to that third party conformity assessment body, the CPSC will notify the third party conformity assessment body, identify the condition or statutory provision that is no longer met, and specify a time by which the third party conformity assessment body shall notify the CPSC of the steps it intends to take to correct the deficiency, and indicate when it will complete such steps. The quality manager must document that they notified the relevant parties within the third party conformity assessment body to take corrective action and also document the action(s) taken.

(e) If the third party conformity assessment body fails to remedy the deficiency in a timely fashion, the CPSC shall take whatever action it deems appropriate under the circumstances, up to and including withdrawing the CPSC's accreditation of the third party conformity assessment body or the CPSC's acceptance of the third party conformity assessment body's accreditation.

§ 1112.39 What records should a third party conformity assessment body retain regarding an audit?

A third party conformity assessment body must retain all records related to an audit that it receives from an accreditation body regarding a reassessment and all records pertaining to the third party conformity assessment body's resolution of, or plans for, re-

solving nonconformities identified through a reassessment by an accreditation body or through an examination by the CPSC. A third party conformity assessment body also must retain such records related to the last three reassessments (or however many reassessments have been conducted, if the third party conformity assessment body has been reassessed less than three times) and make such records available to the CPSC, upon request.

Subpart D—Adverse Actions: Types, Grounds, Allegations, Procedural Requirements, and Publication

SOURCE: 78 FR 15865, Mar. 12, 2013, unless otherwise noted.

§ 1112.41 What are the possible adverse actions the CPSC may take against a third party conformity assessment body?

(a) Potential adverse actions against a third party conformity assessment body include:

- (1) Denial of Acceptance of Accreditation;
- (2) Suspension of Acceptance of Accreditation; or
- (3) Withdrawal of Acceptance of Accreditation.

(b) Withdrawal of acceptance of accreditation can be on a temporary or permanent basis, and the CPSC may immediately withdraw its acceptance in accordance with § 1112.53.

§ 1112.43 What are the grounds for denial of an application?

(a) The CPSC may deny an application for any of the following reasons:

(1) Failure to complete all information, and/or attestations, and/or failure to provide accompanying documentation, required in connection with an application within 30 days after notice of a deficiency by the CPSC;

(2) Submission of false or misleading information concerning a material fact(s) on an application, any materials accompanying an application, or on any other information provided to the CPSC related to a third party conformity assessment body's ability to become or to remain a CPSC-accepted

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third party conformity assessment body; or

(3) Failure to satisfy necessary requirements described in §1112.13, such as ISO/IEC 17025:2005(E) accreditation by a ILAC–MRA signatory accreditation body for the CPSC scope for which acceptance of accreditation is being sought.

(b) The CPSC’s denial of an application will follow the process described in §1112.51.

§ 1112.45 What are the grounds for suspension of CPSC acceptance?

(a) The CPSC may suspend its acceptance of a third party conformity assessment body’s accreditation for any portion of its scope when the third party conformity assessment body fails to cooperate with an investigation under section 14 of the CPSA. A third party conformity assessment body “fails to cooperate” when it does not respond to CPSC inquiries or requests, or it responds in a manner that is unresponsive, evasive, deceptive, or substantially incomplete, or when it fails to cooperate with an investigatory inspection under §1112.27.

(b) Suspension lasts until the third party conformity assessment body complies, to the satisfaction of the CPSC, with required actions, as outlined in the notice described in §1112.51(b), or until the CPSC withdraws its acceptance of the third party conformity assessment body.

(c) If the CPSC determines that the third party conformity assessment body is cooperating sufficiently with the CPSC’s investigation, the CPSC will lift the suspension. The suspension will lift as of the date of the CPSC’s written notification to the third party conformity assessment body that the CPSC is lifting the suspension. The written notification may be by electronic mail.

§ 1112.47 What are the grounds for withdrawal of CPSC acceptance?

(a) A manufacturer, private labeler, governmental entity, or other interested party has exerted undue influence on such third party conformity assessment body or otherwise interfered with or compromised the integrity of the testing process.

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(b) The third party conformity assessment body failed to comply with an applicable protocol, standard, or requirement under subpart C of this part.

(c) The third party conformity assessment body failed to comply with any provision in subpart B of this part.

§ 1112.49 How may a person submit information alleging grounds for adverse action, and what information should be submitted?

(a) *Initiating information.* Any person may submit information to the Commission, such as by writing to the U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, or by sending electronic mail to: *labaccred@cpsc.gov*. The submission must allege that one or more of the grounds for adverse action set forth in this part exists. Any request for confidentiality must be indicated clearly in the submission. The submission should include:

(1) Contact information, including a name and/or a method by which the CPSC may contact the person providing the information;

(2) Identification of the third party conformity assessment body against whom the allegation is being made, identification of any officials or employees of the third party conformity assessment body relevant to the allegation, and contact information for such individuals.

(3) Identification of any manufacturers, distributors, importers, private labelers, and/or governmental entities relevant to the allegation. The submission also should identify any officials or employees of the manufacturers, distributors, importers, private labelers, or governmental entities relevant to the allegation, and contact information for such individuals.

(4) Description of acts and/or omissions to support each asserted ground for adverse action. Generally, the submission should describe, in detail, the basis for the allegation that grounds for adverse action against a third party conformity assessment body exists. In addition to a description of the acts and omissions and their significance, a description may include: dates, times, persons, companies, governmental entities, locations, products, tests, test

results, equipment, supplies, frequency of occurrence, and negative outcomes. When possible, the submission should attach documents, records, photographs, correspondence, notes, electronic mails, or any other information that supports the basis for the allegations;

(5) Description of the impact of the acts and/or omissions, where known.

(b) *Review of initiating information.* Upon receiving the information, the CPSC will review the information to determine if it is sufficient to warrant an investigation. The CPSC may deem the information insufficient to warrant an investigation if the information fails to address adequately the categories of information outlined in paragraph (a) of this section.

§ 1112.51 What are the procedures relevant to adverse actions?

(a) *Investigation.* (1) Investigations under this part are investigations into grounds for an adverse action against a third party conformity assessment body.

(2) The Commission will use its *Procedures for Investigations, Inspections, and Inquiries*, 16 CFR part 1118, subpart A, to investigate under this part.

(3) An investigation under this part may include any act the CPSC takes to verify the accuracy, veracity, and/or completeness of information received in connection with an application for acceptance of accreditation, a submission alleging grounds for an adverse action, or any other information received by the CPSC that relates to a third party conformity assessment body's ability to become or remain a CPSC-accepted third party conformity assessment body.

(4) The CPSC will begin an investigation under this part by providing written notice, which may be electronic, to the third party conformity assessment body. The notice will inform the third party conformity assessment body that the CPSC has received information sufficient to warrant an investigation, and it will describe the information received by the CPSC and the CPSC's investigative process. The notice also will inform the third party conformity assessment body that failure to cooper-

ate with a CPSC investigation is grounds for suspension under § 1112.45.

(5) The notice sent by the CPSC under § 1112.35(b)(3) informing the third party conformity assessment body that it must submit a CPSC Form 223 for audit purposes, which may be electronic, constitutes notice of investigation for purposes of this section. The examination portion of an audit under § 1112.33(c) constitutes an investigation for purposes of this section.

(b) *Initial notice.* If, after investigation, the CPSC determines that grounds for adverse action exist and proposes to take an adverse action against a third party conformity assessment body, the CPSC will notify the third party conformity assessment body, in writing, which may be electronic, about the proposed adverse action. If the proposed adverse action is suspension or withdrawal, the notice formally begins a proceeding to suspend or withdraw, as described in section 14(e) of the CPSA. The notice will contain:

(1) The proposed adverse action;

(2) Specific grounds on which the proposed adverse action is based;

(3) Findings of fact to support the proposed adverse action;

(4) When appropriate, specific actions a third party conformity assessment body must take to avoid an adverse action;

(5) When the proposed adverse action is withdrawal, consideration of the criteria set forth in paragraph (d)(1) of this section;

(6) The time period by which a third party conformity assessment body has to respond to the notice. In general, the notice will inform the third party conformity assessment body that it has 30 calendar days to respond. A third party conformity assessment body may request an extension of the response time, but they must explain why such an extension is warranted and the amount of additional time needed for a response; and

(7) Except under § 1112.53, a CPSC-accepted third party conformity assessment body may continue to conduct tests for purposes of section 14 of the CPSA until a Final Notice of adverse action is issued.

(c) *Third party conformity assessment body response to initial notice.* A third party conformity assessment body's response must be submitted in writing, in English, and may be in the form of electronic mail. The response may include, but is not limited to, an explanation or refutation of material facts upon which the Commission's proposed action is based, supported by documents or sworn affidavit; results of any internal review of the matter and action(s) taken as a result; or a detailed plan and schedule for an internal review. The written response must state the third party conformity assessment body's reasons why the ground(s) for adverse action does not exist, or why the CPSC should not pursue the proposed adverse action, or any portion of the proposed adverse action. If a third party conformity assessment body responds to the notice in a timely manner, the CPSC will review the response, and, if necessary, investigate further to explore or resolve issues bearing on whether grounds exist for adverse action and the nature of the proposed adverse action. If a third party conformity assessment body does not respond to the notice in a timely manner, the CPSC may proceed without further delay to a Final Notice, as described in paragraph (e) of this section.

(d) *Proceeding.* (1) In any proceeding to withdraw the CPSC's acceptance of a third party conformity assessment body's accreditation, the CPSC will consider the gravity of the third party conformity assessment body's action or failure to act, including:

- (i) Whether the action or failure to act resulted in injury, death, or the risk of injury or death;
- (ii) Whether the action or failure to act constitutes an isolated incident or represents a pattern or practice; and
- (iii) Whether and when the third party conformity assessment body initiated remedial action.

(2) In all cases, the CPSC will review and take under advisement the response provided by the third party conformity assessment body. Except for cases under paragraph (d)(3) of this section, the CPSC will determine what action is appropriate under the circumstances.

(3) If, after reviewing and taking under advisement the response provided by a CPSC-accepted firewalled third party conformity assessment body, the CPSC staff concludes that suspension or withdrawal of CPSC acceptance of accreditation is appropriate, staff will transmit its recommendation to the Commission for consideration. Any suspension or withdrawal of CPSC acceptance of accreditation of a firewalled third party conformity assessment body (including immediate and temporary withdrawal under § 1112.53) will be by order of the Commission.

(4) The CPSC may withdraw its acceptance of the accreditation of a third party conformity assessment body on a permanent or temporary basis.

(5) If the CPSC withdraws its acceptance of the accreditation of a third party conformity assessment body, the CPSC may establish conditions for the reacceptance of the accreditation of the third party conformity assessment body, under section 14(e)(2)(B)(ii) of the CPSA. Any such conditions would be related to the reason(s) for the withdrawal.

(e) *Final notice.* If, after reviewing a third party conformity assessment body's response to a notice and conducting additional investigation, where necessary, the CPSC determines that grounds for adverse action exist, it will send a Final Notice to the third party conformity assessment body, in writing, which may be electronic. The Final Notice will state:

- (1) The adverse action that the CPSC is taking;
- (2) Specific grounds on which the adverse action is based;
- (3) Findings of fact that support the adverse action;
- (4) When the adverse action is withdrawal, consideration of the criteria as set forth in paragraph (d)(1) of this section;
- (5) When the adverse action is withdrawal, whether the withdrawal is temporary or permanent, and if temporary, the duration of the withdrawal;
- (6) The third party conformity assessment body's accreditation is not accepted by the Commission as of the date of the Final Notice of denial, suspension, or withdrawal, for specified

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portion(s) of its CPSC scope. The CPSC Web site will be updated to reflect adverse actions to any previously CPSC-accepted third party conformity assessment bodies; and

(7) Whether the third party conformity assessment body may submit a new application.

(f) *Possible actions after final notice.* Upon receipt of a Final Notice, a third party conformity assessment body, as applicable, may:

(1) If the Final Notice indicates such, the third party conformity assessment body may submit a new application; or

(2) File an Administrative Appeal.

(g) *Administrative appeal.* (1) Except for paragraph (g)(2) of this section, the third party conformity assessment body may file an Administrative Appeal with the Office of the Executive Director.

(i) The Administrative Appeal must be sent, by mail, within 30 calendar days of the date on the Final Notice to: the Office of the Executive Director, Room 812, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, or by electronic mail to: cpsc-os@cpsc.gov.

(ii) All appeals must be in writing, and must be in English.

(iii) All appeals must explain the nature and scope of the issues appealed from in the Final Decision, and must describe in detail the reasons why the third party conformity assessment body believes that no ground(s) for adverse action exist.

(iv) If an Administrative Appeal is timely filed, the Executive Director will issue a Final Decision within 60 calendar days of receipt. If the Executive Director's Final Decision requires more than 60 calendar days, he or she will notify the third party conformity assessment body that more time is required, state the reason(s) why more time is required, and, if feasible, include an estimated date for a Final Decision to be issued.

(2) In the case that the Commission has suspended or withdrawn its acceptance of the accreditation of a firewalled third party conformity assessment body, the firewalled third party conformity assessment body may file an Administrative Appeal with the Commission.

(i) The Administrative Appeal must be sent, by mail, within 30 calendar days of the date on the Final Notice to: the Office of the Secretary, Room 820, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, or by electronic mail to: cpsc-os@cpsc.gov.

(ii) All appeals must be in writing, and must be in English.

(iii) All appeals must explain the nature of the issues appealed from in the Final Decision, and must describe in detail the reasons why the third party conformity assessment body believes that no ground(s) for adverse action exist.

§ 1112.53 Can the CPSC immediately withdraw its acceptance of the accreditation of a third party conformity assessment body?

(a) When it is in the public interest to protect health and safety, and notwithstanding any other provision of this part, the CPSC may withdraw immediately and temporarily its acceptance of a third party conformity assessment body's accreditation for any portion of its CPSC scope while the CPSC pursues an investigation and potential adverse action under § 1112.51.

(1) For purposes of this part, "in the public interest to protect health and safety" means that the CPSC has credible evidence that:

(i) The integrity of test(s) being conducted under a scope for which the CPSC has accepted the third party conformity assessment body's accreditation, have been affected by undue influence or otherwise interfered with or compromised; and

(ii) The scope for which the CPSC has accepted the third party conformity assessment body's accreditation involve a product(s) which, if noncompliant with CPSC rules, bans, standards, and/or regulations, constitutes an imminently hazardous consumer product under section 12 of the CPSCA.

(2) When presented with an allegation that, if credible, would result in immediate and temporary withdrawal of CPSC acceptance of a third party conformity assessment body's accreditation, the investigation and adverse action procedures described in § 1112.51

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apply, except that instead of the timeframes described in §1112.51, the following timeframes will apply when the CPSC pursues immediate and temporary withdrawal:

(i) The Initial Notice will generally inform the third party conformity assessment body that it has 7 calendar days to respond.

(ii) An administrative appeal of a Final Notice of immediate and temporary withdrawal will be timely if filed within 7 calendar days of the date of the Final Notice.

(b) If the third party conformity assessment body is already the subject of an investigation or adverse action process under §1112.51, the immediate and temporary withdrawal will remain in effect until: the agency communicates in writing that the immediate and temporary withdrawal has been lifted; the investigation concludes and the agency does not propose an adverse action; or the adverse action process concludes with denial, suspension, or withdrawal.

(c) If the third party conformity assessment body is not already the subject of an investigation or adverse action process under §1112.51, an investigation under §1112.51(a) will be launched based on the same information that justified the immediate and temporary withdrawal.

§ 1112.55 Will the CPSC publish adverse actions?

Immediately following a final adverse action, the CPSC may publish the fact of a final adverse action, the text of a final adverse action, or a summary of the substance of a final adverse action. After issuance of a final adverse action, the CPSC will amend its Web site listing of CPSC-accepted third party conformity assessment bodies to reflect the nature and scope of such adverse action.

PART 1115—SUBSTANTIAL PRODUCT HAZARD REPORTS

Subpart A—General Interpretation

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- 1115.2 Scope and finding.
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1115.5 Reporting of failures to comply with a voluntary consumer product safety standard relied upon by the Commission under section 9 of the CPSA.

1115.6 Reporting of unreasonable risk of serious injury or death.

1115.7 Relation to other provisions.

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1115.11 Imputed knowledge.

1115.12 Information which should be reported; evaluating substantial product hazard.

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Subpart B—Remedial Actions and Sanctions

1115.20 Voluntary remedial actions.

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Subpart C—Guidelines and Requirements for Mandatory Recall Notices

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APPENDIX TO PART 1115—VOLUNTARY STANDARDS ON WHICH THE COMMISSION HAS RELIED UNDER SECTION 9 OF THE CONSUMER PRODUCT SAFETY ACT

AUTHORITY: 15 U.S.C. 2061, 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2073, 2076, 2079 and 2084.

SOURCE: 43 FR 34998, Aug. 7, 1978, unless otherwise noted.

Subpart A—General Interpretation

§ 1115.1 Purpose.

The purpose of this part 1115 is to set forth the Consumer Product Safety Commission's (Commission's) interpretation of the reporting requirements imposed on manufacturers (including importers), distributors, and retailers by section 15(b) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(b)) and to indicate the actions and sanctions which the Commission may require or impose to protect